



CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION

**Testimony of: Eric J. Brown, Esq.
Director of Energy & Environmental Policy
Connecticut Business & Industry Association
before the Commerce Committee
Public Hearing – February 28, 2012**

Senate Bill No. 222: An Act Concerning a Regulatory Fairness Board

Position: CBIA supports this bill and appreciates your consideration of the following comments to improve and strengthen it.

Good morning. My name is Eric Brown and I serve as associate counsel with the Connecticut Business & Industry Association (CBIA). CBIA represents roughly ten-thousand small and large businesses throughout Connecticut essentially all of which are subject to myriad regulations at both the state and federal level. These companies also employ hundreds of thousands of Connecticut citizens who share a common interest in the environmental and economic health of our state.

CBIA greatly appreciates this committee highlighting through this bill, the critical link between Connecticut's regulatory climate and its competitive position in the marketplace for economic growth and job creation.

CBIA has worked with legislatures and administrations for years to help improve Connecticut's regulatory climate, particularly in the area of environmental regulations. For example, in 1998, we successfully worked with the legislature and the administration to adopt legislation intended to foster greater transparency and scrutiny when the agency proposes regulations that go beyond federal standards and practices.¹ The scope of this legislation should be expanded to include more agencies.

However, our experience is that the business community's view of Connecticut's regulatory climate is highly influenced by their experiences with regulatory agencies themselves – experiences that may result more from the philosophy of the agency's leadership and staff in implementing the laws and regulations, than by particulars of the laws and regulations administered by the agency. For example, for years after the adoption of the 1998 legislation referenced above, businesses were very frustrated that the then, Department of Environmental

¹ See C.G.S. 22a-61(b) adopted through Public Act 98-124 and amended by Public Acts 02-276 and 07-45.

Protection often chose to interpret the statute in such a way that rendered it all but useless. Additionally, agencies have tremendous discretion with respect to their enforcement authority. While it is impractical and probably inadvisable to attempt to limit agency discretion through legislation, we strongly believe that the Governor and the General Assembly can and should put in place some key principles that all agencies must adhere to in developing regulations and utilizing its enforcement discretion. We recommend such principles be incorporated into this bill in order to provide more specific direction to the proposed Fairness Board.

Specifically, we refer you to Section 1 of Presidential Executive Order 13563.² This January 2011 Presidential directive establishes several important “General Principles of Regulation” that federal agencies must adhere to in developing regulation. They include:

- Protecting public health, welfare, safety and environment
- Promoting economic growth, innovation, competitiveness, and job creation
- Be based on best available science
- Allow for public participation and an open exchange of ideas
- Promoting predictability and reducing uncertainty
- Identifies and uses the best, most innovative, and least burdensome tools for achieving regulatory ends
- Takes into account benefits and costs
- Insures the regulations are accessible, consistent, written in plain language, and easy to understand
- Measure, and seek to improve, the actual results of the regulatory requirements
- To the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt
- Identify and assess available alternatives to direct regulation, including providing economic incentives

CBIA would urges the legislature and the Governor to move forward expeditiously to adopt these principles in Connecticut through legislation and/or executive order. The board contemplated in this bill could, in part, serve as a resource to the General Assembly and the administration, in implementing these principles.

Attending to Connecticut’s regulatory climate should be a continuing priority for this committee and our state. We thank you for your raising this bill and we would very much appreciate the opportunity to work with you in this area.

Thank you for this opportunity to share our perspective.

² Presidential Executive Order 13563 of January 18, 2011: Improving Regulation and Regulatory Review